

AO 399 (12/93)

**WAIVER OF SERVICE OF SUMMONS**TO: Jeffrey J. Cole

(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

Re: Crime Victim Center of Erie County, Inc., Defendant

I acknowledge receipt of your request that I waive service of a summons in the action of Raymond P. Bielata, Plaintiff v. Crime Victim of Erie County, Inc., and Susanne Porowski, Defendants, which is case number

(CAPTION OF ACTION)

CA05-183 Erie

(DOCKET NUMBER)

in the United States District Court for the

WesternDistrict of Pennsylvania

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the Court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after July 11, 2005, or within 90 days after that date if the request was sent outside the United States.

(Date Request was sent)

July 11, 2005

(DATE)


Print/Typed Name Lisa Smith PrestaAs Attorney

(Title)

of Crime Victim Center of Erie County, Inc.

(Corporate Defendant)

**Duty to avoid Unnecessary Costs of Service of Summons**

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the Court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

AO 399 (12/93)

**WAIVER OF SERVICE OF SUMMONS**TO: Jeffrey J. Cole  
(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)Re: Susanne Porowski, Defendant

I acknowledge receipt of your request that I waive service of a summons in the  
Raymond P. Bielata, Plaintiff v. Crime Victim of Erie  
 action of County, Inc., and Susanne Porowski, which is case number  
 (CAPTION OF ACTION) Defendants

CA05-183 Erie in the United States District Court for the  
 (DOCKET NUMBER)

Western District of Pennsylvania  
 I have also received a copy of the complaint in the action, two copies of this instrument,  
 and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the  
 complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting)  
 be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to  
 the lawsuit or to the jurisdiction or venue of the Court except for objections base on a defect  
 in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose  
 behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60  
 days after July 11, 2005, or within 90 days after that date if the request was sent  
 (Date Request was sent) outside the United States.

July 11, 2005  
 (DATE)

Lisa Smith Presta

Print/Typed Name Lisa Smith Presta

As Attorney of Susanne Porowski  
 (Title) (Corporate Defendant)

**Duty to Avoid Unnecessary Costs of Service of Summons**

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the Court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                        |   |                                |
|------------------------|---|--------------------------------|
| RAYMOND P. BIELATA,    | ) |                                |
|                        | ) |                                |
| vs.                    | ) | Civil Action No. 05 - 183 Erie |
|                        | ) |                                |
| CRIME VICTIM CENTER OF | ) |                                |
| ERIE COUNTY, INC., and | ) |                                |
| SUSANNE POROWSKI,      | ) |                                |
| Defendants             | ) |                                |

**WAIVERS OF SERVICE OF SUMMONS**

To: U.S. Clerk of Court

Attached for filing are the executed Waivers of Service of Summons provided by counsel for Defendants, for Defendants Crime Victim Center of Erie County, Inc. and Susanne Porowski.

Respectfully submitted,

McCLURE & MILLER LLP

By: \_\_\_\_\_

Jeffrey J. Cole

Pa. Supreme Ct. No. 73052

717 State Street, Suite 701

Erie, PA 16501

(814) 453-3681

Counsel for Plaintiff, Raymond P. Bielata

Dated: July 12, 2005

**Certificate of Service**

I delivered a copy of this document to the Defendants, in care of their counsel, Lisa Smith Presta, Esq., by Court House Box delivery on July 12, 2005.

\_\_\_\_\_  
Jeffrey J. Cole